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6 UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
7 AT SEATTLE

8 MIROSLAVA LEWIS,

9 Plaintiff,

10 v.

11 VAIL RESORTS, INC., *et al.*,

12 Defendants.

CASE NO. 2:23-cv-00812-RSL

ORDER GRANTING IN PART
PLAINTIFF'S MOTION TO
CONDUCT ADDITIONAL
DEPOSITIONS

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15 This matter comes before the Court on "Plaintiff's Motion to Enforce Compliance
16 with a Subpoena." Dkt. # 67. Despite the title of the motion, there are no outstanding
17 subpoenas that must be enforced. Rather, plaintiff seeks leave to take the depositions of
18 three of defendants' experts, depositions which would be in excess of the number of
19 depositions permitted under Fed. R. Civ. P. 30(a)(2)(A)(i).

20 Rule 30(a)(2)(A)(i) limits the number of depositions in a civil action to ten per side.
21 Although the Court has the authority to alter the discovery limits imposed by the rules
22 (Fed. R. Civ. P. 26(b)(2)(A)), the party seeking to exceed the limit has the burden of
23 making a particularized showing of need for each additional deposition. *Thykkuttathil v.*
24 *Keese*, 294 F.R.D. 601, 602 (W.D. Wash. 2013). By imposing a presumptive ten-
25 deposition limit, the Rule's "objective is to emphasize that counsel have a professional
26 obligation to develop a mutual cost-effective plan for discovery in the case." Fed. R. Civ.

1 P. 30, Advisory Committee Notes 1993 Amendment. In determining whether additional
2 depositions are necessary, courts consider the complexity of the case, the number of parties
3 involved, whether the depositions would be cumulative, whether the party has already had
4 ample opportunity to obtain the information needed to prosecute or defend the case,
5 whether the additional depositions would create an unreasonable burden or expense. *See*
6 *Jones v. Sunbelt Rentals, Inc.*, No. 22CV05954AMOPHK, 2023 WL 10691302, at *2–3
7 (N.D. Cal. Nov. 16, 2023) (collecting cases).

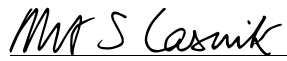
8 This is not a complex case. The facts surrounding plaintiff's fall are generally
9 undisputed, as are the majority of plaintiff's injuries. The case involves a single plaintiff
10 and three Vail-entity defendants. At the time she filed this motion, plaintiff had already
11 taken eleven depositions, with a twelfth scheduled for October 16, 2024. Defendants
12 agreed to exceed the Rule 30(a)(2)(A)(i) limit for the last two depositions, but raised the
13 deposition limit issue at the time. Despite there being every reason to suspect that this case
14 would involve the disclosure and testimony of experts, plaintiff chose to depose
15 individuals about specific written communications that were already in her possession
16 (Amy Poe, Tom Fortune, and Vince Arthur), a number of individuals regarding Stevens
17 Pass Ski Resort's awareness that there was no net on the downhill side of the Kehr's
18 Chairlift and that its absence posed a risk (Amy Poe, Angela Seidling, and Frank Polizzi),
19 and a state inspector on whose report one of defendants' experts relies (Harry McClain)
20 rather than the expert himself. The fact that these deponents had relevant information does
21 not mean their depositions were necessary for purposes of Rule 30(a)(2)(A)(i). It was
22 counsel's obligation to develop a cost-effective plan, presumptively limited to ten
23 depositions, to litigate this case. They have not done so, instead taking duplicative or only
24 minimally effective depositions and then seeking permission to exceed the presumptive
25 limit to depose defendants' experts. Forcing defendants to defend additional depositions
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1 when they already accommodated plaintiff's earlier request to exceed the ten-deposition
2 limit would impose additional and unjustified expenditures of time and resources.

3 The Court finds that plaintiff has had ample opportunity to obtain the information
4 needed to prosecute this case and that her motion for three additional depositions is
5 excessive given the complexity of the case, her prior choices, and the costs defendants
6 would incur. Nevertheless, plaintiff will be permitted to take one additional deposition as
7 long as she pays the related financial costs, including defense counsel's reasonable
8 attorney's fees.
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10 For all of the foregoing reasons, plaintiffs' motion to exceed the ten-deposition limit
11 of Rule 30(a)(2)(A)(i) is GRANTED in part and DENIED in part.
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13 Dated this 29th day of October, 2024.

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15 Robert S. Lasnik
16 United States District Judge
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